IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No. 9502 of 2006
Date of decision: 19th April, 2011

Gram Panchayat Dunda Hera, Distt. Gurgaon

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASBIR SINGH
HON'BLE MR. JUSTICE RAKESH KUMAR GARG

Present: Mr. G.S.Dhaliwal, Advocate for
Mr. M.L.Sharma, Advocate for the petitioners.

Mr. Kamal Sehgal, Addl.A.G.Haryana,
for the respondent-State.

Jasbir Singh,J.(Oral)

The petitioner-Gram Panchayat Dunda Hera, Distt. Gurgaon now has ceased to exist because during the pendency of this writ petition, area of that village has been included within the limits of Municipal Corporation, Gurgaon.

This writ petition has been filed with a prayer to quash the notifications issued under Sections 4 and 6 of the Land Acquisition Act, 1887(hereinafter referred to as the 'Act') on 26.05.1976 and 27.05.1976 respectively and award No. 17 passed on 25.08.1976. Further, prayer has been made that a writ of mandamus be issued to direct the respondents to level the land which has been provided as an

alternative for the cremation ground/a grave-yard.

It is an admitted fact that the land was acquired for a public purpose, namely for development and utilisation of land for industrial area in that village. The acquisition become final when an award was passed in the year 1976. This writ petition was filed after 20 years of passing of the award. No explanation is coming out for not filing the writ petition at an early stage of time. As per the admitted facts, cremation ground/a grave-yard is situated in Khasra No. 111 measuring 44 kanals and 10 marlas. In the award regarding compensation for the land in dispute it was observed as under:-

> ***"Mode of Payment:***
>
> *The payment will be made to the land owners and other interested persons according to their shares as entered in the latest record of the rights (jamabandi for the year 1969-70) and amended to the extent of sanctioned mutations thereafter.*
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> *However, the payment for field number 111 measuring 44 kanals 10 marlas and being used as cremation ground by the village populace, assessed at the rate of Rs. 5800/- per acre vide this award, will not be made in cash and instead land of equal value would be provided for this purpose out of the area acquired in this village earlier to the Gram Panchayat. The owner of the aforesaid field*

*number, in accordance with the decision taken by the Government in this behalf on the request of the villagers/Gram Panchayat.***"**

It was further stated that possession of the land may be obtained after pronouncement of the award.

To the notice issued, reply has been filed wherein it has been stated as under:-

"That the Land Acquisition Collector at the time of giving his award no. 17 of 25.08.1976 had observed that the payment for field No. 111 measuring 44 kanals 10 Marlas which was being used as cremation ground by the village populace will not be made in cash and instead land of equal value would be provided for this purpose to the petitioner, the owner of the aforesaid field number, in accordance with the decision taken by the Government in this behalf on the request of the petitioner.

An alternative piece of land in lieu of land under field No. 111, in fact, was to be given to the petitioner by Haryana Urban Development Authority because land for development of Industrial Complex thereon was acquired by Haryana Urban Development Authority and was subsequently transferred to the Corporation. Accordingly, Haryana Urban Development

Authority offered 44 Kanals 10 Marlas of the land to the petitioner just opposite the land under field No. 111. However, this land was not acceptable to the petitioner due to a deep Nallah running thereon. The Corporation, as a gesture of goodwill constructed a shed, two platforms, a boundary wall with gate, and also provided water connection, over the site offered by Haryana Urban Development Authority to the petitioner. The shed structure is still existing at the site but the residents of village Dundahera are not utilising this facility. However, to resolve the issue the Corporation offered to the petitioner another piece of land duly levelled which also included the 1000 sq. mtr. Plot with shed, platform and boundary wall etc. constructed at site offered by Haryana Urban Development Authority, but the petitioner did not agree to accept this alternative place of land offered by Corporation also with out any cogent reasons."

It is stated by the counsel for the parties that a large portion of the land is being used by the truck union for parking of the trucks, if vacated, the respondents are ready to possess that land to utilise it for the public purpose for which it was acquired.

In view of the facts that the acquisition has become final, Gram Panchayat is no more in existence and an alternative site for cremation ground/a grave-yard has already been provided, nothing

remains to be done in this case. As such, this writ petition is dismissed. However, it is made clear that in case, in the near vicinity of village Dunda Hera, a land for cremation ground/a grave-yard has not been provided, it should suitably be provided for the same. The land be got vacated from unauthorised occupants and it be utilised for a proper use.

[JASBIR SINGH]
JUDGE

[RAKESH KUMAR GARG]
JUDGE

18th April, 2011
Shivani Kaushik